

TITLE 16. Board of Optometry

NOTICE IS HEREBY GIVEN that the Board of Optometry is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at 400 R Street, Suite 4090, Sacramento, California, at 10:15 AM on November 16, 2004. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Optometry at its office not later than 5:00 p.m. on November 15, 2004 or must be received by the Board of Optometry at the hearing. The Board of Optometry, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 3025 of the Business and Professions Code, and to implement, interpret or make specific Section 2544 and 3042 of said Code, the Board of Optometry is considering changes to Division 15 of Title 16 of the California Code of Regulations as follows: Adoption of section 1508, Optometric Assistant.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Senate Bill 929 (Chapter 676, Statutes 2000) established the procedures that an assistant may legally provide under the direct responsibility and supervision of an optometrist.

This proposed new regulation defines an optometric assistant and states that assistants are to be under the direct responsibility and supervision of an optometrist. It also requires that assistants demonstrate to the supervising optometrist an understanding and ability to perform authorized statutory tasks in a safe manner and that the supervising optometrist maintain a written policy of the procedures which specific assistants may perform.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses:

The Board of Optometry has determined that this regulatory proposal will not have any significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board of Optometry is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board of Optometry has determined that the proposed regulations would not affect small businesses in that this proposal provides language to conform with statutory changes that optometrists have already utilized and merely provides standards for training and supervising of optometric assistants that currently do not exist.

CONSIDERATION OF ALTERNATIVES

The Board of Optometry must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected

private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Optometry has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Optometry at 400 R Street, Suite 4090, Sacramento, California 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Rex Farmer
Address:	400 R Street, Suite 4090 Sacramento, CA 95814
Telephone No.:	(916) 322-0961
Fax No.:	(916) 445-8711
E-Mail Address:	rex_farmer@dca.ca.gov

The backup contact person is:

Name:	Jane Flint
Address:	400 R Street, Suite 4090 Sacramento, CA 95814

Telephone No.: (916) 323-8722
Fax No.: (916) 445-8711
E-Mail Address: jane_flint@dca.ca.gov

Website Access:

Materials regarding this proposal can be found at www.optometry.ca.gov

**PROPOSED ADOPTION : CALIFORNIA CODE OF REGULATIONS
SECTION 1508**

Article 1. General Provisions

1508. Optometric Assistant

As used in this regulation:

(a) An optometric assistant is an individual working in the office of an optometrist and acting under the optometrist's direct responsibility and supervision.

(b) Supervision by an optometrist of an optometric assistant means the supplying or providing of direction, control, instruction and evaluation, to include personal review of, and responsibility for the results of testing.

(c) Prior to the assignment of a task or procedure, an optometric assistant must first demonstrate to the satisfaction of the supervising optometrist that he/she possesses the necessary understanding of, and ability to perform such tasks that may lawfully be assigned in a safe manner. A written policy must outline what procedures can be done and by whom. This statement must also state that no professional judgement or interpretation of data are allowed in any situation by an optometric assistant.

Note: Authority cited: Section 3025, Business and Professions Code, Reference: Section 2544 and 3042, Business and Professions Code.

BOARD OF OPTOMETRY
INITIAL STATEMENT OF REASONS

Hearing Date: November 16, 2004

Subject Matter of Proposed Regulations:

Optometric Assistant.

(1) Section Adopted: 1508

Specific Purpose of each adoption, amendment, or repeal:

Senate Bill 929 (Chapter 676, Statutes 2000) established the procedures that an assistant may legally provide under the direct responsibility and supervision of an optometrist. No professional judgement or interpretation of the procedures by assistants is to be involved. This proposed new regulation defines an optometric assistant and what constitutes supervision by an optometrist. It also directs that optometric assistants demonstrate to the supervising optometrist the understanding and ability to perform lawful tasks and supervising optometrists maintain a written policy of what tasks designated assistants may perform.

Factual Basis/Rationale

Subsequent to the enactment of Senate Bill 929, the Board underwent a program review by the Joint Legislative Sunset Review Committee (JLSRC). In Its final report the JLSRC in part directed the Board to promulgate regulations defining the responsibilities of optometrists for the training and supervision of assistants to ensure that tasks authorized in Business and Professions Code section 2544 are not performed in a perfunctory manner. The intent is to ensure that the performance of various tests by assistants be safe and result in accurate data for the supervising optometrist to utilize in assessing the ocular health of his/her patients.

Underlying Data

There were no technical, theoretical or empirical studies or reports relied upon in the proposal of this regulation amendment.

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony: This new regulation proposes to adopt regulatory language to conform with statutory changes that have already been implemented.

Description of alternatives that would lessen any significant adverse impact on business: None.

Specific Technologies or Equipment

These regulations do not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No alternatives were considered that would be either more effective than or quality as effective as or less burdensome to affected private persons than the amendment to this regulation.